

Domestic Relations Committee
Judicial Conference of Indiana

Minutes
May 21, 2004

The Domestic Relations Committee met at the Indiana Judicial Center in Indianapolis, Indiana on Friday, May 21, 2004 from 10:30 – 2:30 p.m.

1. Members present. Mary Margaret Lloyd, Roderick D. McGillivray, Keith A. Meier, Robyn L. Moberly, Nicholas L. South, and Michael P. Scopelitis, Chair.
2. Staff present. Jeffrey Bercovitz provided the committee with staff assistance.
3. Guests present. Donna Bays, Chair, Family and Juvenile Law Section, ISBA was present.
4. Minutes approved. The minutes from April 16, 2004 were approved as amended.
5. Domestic Relations Benchbook.
 - a. Committee members agreed to prepare each chapter of the Domestic Relations Benchbook with the following format:
 - (1) Use “**Ind. Code § 31-15-10-1**” and bold for all code citations.
 - (2) Use “**Berthholet v. Berthholet, 725 N.E.2d 487 (Ind. Ct. App. 2000)**” and bold for all case citations. Always use complete case citation.
 - (3) Use 12 point type, Times New Roman Font, and 1” margins.
 - (4) Use Topic headings in each section, in bold, aligned with the left margin. Page numbers bottom center.
 - (5) Forms should be submitted with each chapter by author of the chapter. Other committee members may submit additional forms. Forms will be reviewed, revised and approved by the committee.
 - (6) Use Case Number, not Cause Number.
 - (7) Prepare Table of Cases and Authorities by Chapter.
 - b. Members of the committee agreed to prepare each chapter of the Domestic Relations Benchbook with the following substantive areas, if applicable:
 - (1) Purpose
 - (2) Authority
 - (3) Pleading Requirement/Time limits for court
 - (4) Black letter rules/law
 - (5) Ethics
 - (6) Practice Tips
 - (7) Checklist/key points/Sample language for order/Brief Dialogue
 - (8) Suggestions for local rules
 - (9) Forms
 - (10) Table of Cases and Authorities
 - c. Committee members agreed to revise the previous assignment for the July meeting in accordance with the above directions.

d. Members of the committee agreed to the following outline assignments: See attachment No. 1.

e. Committee members agreed to the following schedule for completion of assignments:

Comm. of the whole	July 16, 2004
LaViolette, Felts	August 20, 2004
Ault, Scopelitis	October 15, 2004
Chapleau, Moberly	November 19, 2004
Lloyd, McGillivray	January 21, 2005
South, Meier	February 18, 2005
New judge, Bonfiglio	March 18, 2005

f. Members of the committee discussed the need for portal technology for committee use. They agreed to exchange research information with other committee members, especially if one member finds information helpful to another member.

6. Child support calculator. Committee members discussed the need for use of the phrase, "controlled expenses" in the child support guidelines and additional explanation for the phrase.

7. Court ADR program. Mr. Bercovitz reported receipt of a copy of a letter by the Division of State Court Administration to a court indicating approval for that court's ADR program was withdrawn. The program had not made changes needed to comply with the Standards and Guidelines. Committee members suggested a copy of this letter be sent to the Clerk in the county.

8. Next meeting. Committee members agreed to meet again on the following dates: July 16, August 20, October 15, November 19, 2004 and January 21, February 18, March 18, April 15, and May 20, 2005 from 10:30 to 4:00 p.m. at the Indiana Judicial Center.

Respectfully submitted,

Jeffrey Bercovitz, Director
Juvenile and Family Law

Domestic Relations Benchbook Outline
Procedures, Forms, Scenarios, Applicable case law

LaViolette	I. Marriage
	A. Requirements
	B. Waivers
	C. Palimony and Common Law Marriage
	D. Conflicts in Jurisdiction
	E. Void and Voidable Marriage
	F. Same Sex Marriage
	II. Legal Separation
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	III. Dissolution
Felts	A. Filing
	1. Grounds/Petition/Jurisdiction/Venue/Notice
	2. Property/Debt disclosure forms
	3. TR 65 Ex Parte Issues
	4. Fee Wavers and Deferrals
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Committee of the whole	B. Provisional Orders - Introduction to Provisional Orders
	1. Custody
	2. Visitation
	3. Support and Modification
	4. Property
	5. Debts
	6. Temporary Maintenance
	7. Family Violence Issues
	8. Temporary Restraining Orders
	9. Discussion of relationship of 7. and 8. to Protection Orders
	10. Attorney's Fees and other litigation expenses
	11. Emergency Custody Requests
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Felts	C. Divorce Seminars For Parents and Children
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	D. Discovery
	E. Case Management
Ault	F. Final Hearings
	1. Counseling
	2. Mediation
	3. Family Violence Issues
	4. Contested Final Hearings/Pro Se Final Hearings
	5. Additional Parties

6. Findings of Fact
7. Attorney's Fees and litigation expenses

G. Summary Decrees, Waivers, Agreements, Pro Se Cases

H. Property Division

Scopelitis

1. Pensions
 - (a) Military Retirement Act (USFSPA)
 - (b) Retirement Equity Act of 1984 (REA)
 2. Insurance/COBRA
 3. QDRO Issues/Forms
 4. Tax Considerations
 5. Antenuptial Agreements
 6. Evaluation Issues/Appreciation/Dates
 7. Income from Property
 8. Interest on Award
 9. Dissipation Issues
 10. Worker's Compensation; Personal Injury Awards; Other Claims
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Chapleau

11. Professional Degrees and Practices
 12. Debt
 13. Wills
 14. Bankruptcy
 15. Property Acquired Before Marriage
 16. Inheritances
 17. Stocks and Options
 18. In Kind Benefits, e.g. Frequent Flyer miles
 19. Effect of co-habitation on property awards, valuation and disposition
 20. Uniform format for proposed distribution
 21. Uniform format for evaluation of distribution
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Moberly

I. Child Custody/Visitation

1. Jurisdiction Issues
 2. Emergency Proceedings
 3. Joint Custody
 4. Third Party Placement
 5. Relationship between CHINS and Delinquency Actions
 6. In camera interview of children
 7. Child witness
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Lloyd

J. Child Support

1. Emancipation
2. Child Qualified Medical Support Orders
3. Dependency Exemptions
4. List of penalties for nonpayment of support

K. Spousal Maintenance

1. Rehabilitative Maintenance

2. Permanent Maintenance

- McGillivray
- IV. Post Decree Actions
 - A. Enforcement of Decrees/Local and Foreign/Support Arrears Forms
 - B. Modification of Decrees
 - 1. Modification of Support
 - 2. Modification of Custody
 - 3. Modification of Property
 - C. Appeals and Continuing Jurisdiction of the Trial Court
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- South
- V. Grandparent Visitation; Third Party Visitation
 - VI. Support Actions (Separate Actions)
 - VII. Paternity Issues (In Dissolution Cases)
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- Meier
- VIII. Uniform and Federal Domestic Relations Acts
 - A. UCCJA
 - B. URESA/UIFSA
 - C. FFCCSA
 - D. Hague Convention
 - E. Full Faith and Credit
 - F. PKPA
 - G. Indian and Tribal Law
 - H. Other
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- New Judge
- IX. Rights of Nonmarital Parties
 - A. Medical bills
 - B. Partition in Paternity case
 - X. Protection Orders
 - A. Protection Orders
 - B. Family Violence Issues
 - C. No Contact Orders
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- Bonfiglio
- XI. Aids to the Court
 - A. GAL
 - B. CASA
 - C. Substance Abuse Evaluation
 - D. Home Studies
 - E. Parenting Classes
 - F. Psychological Evaluators
 - G. List of commonly used assessment tools and their purpose
 - H. Parenting inventories

XII. Uniform Local Rules

XIII. List of Resources Used By Committee Members